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May 15, 2001

VIA HAND DELIVERY

Magalie R. Salas, Secretary
Federal Communications Commission
Portals II, Filing Center, TW-A325
Washington, D.C. 20554

Re: **MM Docket No. 91-352 /**
FM Table of Allotments
(Ava, Branson and Mountain Grove MO)

Dear Ms. Salas

Enclosed herewith for filing, on behalf of our client, Lake Broadcasting, Inc., are an original and four (4) copies of its Petition for Reconsideration in the above-referenced matter.

Please direct all communications concerning this matter to the undersigned.

Very truly yours


Jerold L. Jacobs

Enc.

cc: As on Certificate of Service (w/enc.)

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MAY 15 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 91-352
Table of Allotments,) RM-7866
FM Broadcast Stations)
(Ava. Branson and)
Mountain Grove, Missouri))

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

PETITION FOR RECONSIDERATION

Lake Broadcasting, Inc. ("Lake"), licensee of Station KBMX(FM), Eldon, Missouri, and permittee of Station KFXE-FM, Cuba, Missouri, by its attorneys, pursuant to Section 1.429 of the Commission's Rules, hereby petitions for reconsideration of the *Memorandum Opinion and Order* ("MO&O"), DA 01-1017, released April 20, 2001, by the Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau (the "Bureau") in this proceeding. In support whereof, Lake shows the following:

1. Paragraph 1 of the *MO&O* states that it is dismissing Lake's January 11, 1996 Petition for Reconsideration "as moot...given that Lake's license for Station KBMX(FM) and its construction permit have been revoked with finality," citing the fact that the U.S. Supreme Court denied certiorari in Lake's appeal of the revocation of its licenses and construction permits. Lake respectfully urges that the subject dismissal is premature and should be set aside.

2. In *Contemporary Media, Inc.*, 13 FCC Rcd 14437 ¶45 (1998), the Commission stated that if the Licensees [see footnote 4 below] sought judicial review, they would be authorized to continue to operate until 12:01 a.m. on the 91st day after the completion of judicial review, which

would not be completed until the Supreme Court denied a petition for writ of certiorari or issued a ruling on the merits affirming the denial of the applications, whichever occurred later. The Supreme Court denied certiorari on March 19, 2001, and that denial became final on April 13, 2001.^{1/} Thus, Lake's 90 days of continued operating authority have not yet expired, nor will they expire until July 12, 2001.^{2/}

3. The Bureau's dismissal action is premature, because Lake remains authorized at this point to continue to operate its stations, and because Lake intends to file with the Commission shortly a request for extension of its operating authority and additional equitable relief, based on compelling and extraordinary equitable circumstances which have not previously been presented to the Commission or considered by it. Should the Commission determine, after considering the request for special equitable relief, that no extension of operating authority or other equitable relief is warranted, final action on Lake's prior Petition for Reconsideration will become appropriate.^{3/} At the present time, however, dismissal of that Petition for Reconsideration is premature, because the matters presented therein are not yet – and may not ultimately become – moot.

4. Accordingly, Lake respectfully requests that the Bureau should withhold any dismissal action and should hold this matter in abeyance, pending the Commission's ultimate resolution of the request for special equitable relief to be filed shortly. Lake also respectfully

^{1/} Under Supreme Court Rule 44(2), a denial of certiorari becomes final 25 days after the date of the order denying the petition for writ of certiorari, unless a petition for rehearing is filed with the Court. No such request for rehearing was filed with the Court in this case.

^{2/} Since Paragraph 45 of *Contemporary Media, Inc., supra*, intended to allow for completion of judicial review, measuring completion in accordance with S.Ct. Rule 44(2) is axiomatic, even though that Rule was not specifically referenced in Paragraph 45.

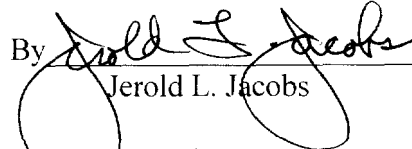
^{3/} The *MO&O* (§5) also bases the subject dismissal on the April 13, 2001 dismissal of Lake's Petition for Reconsideration in MM Docket No. 89-120. On May 14, 2001, Lake filed a Petition for Reconsideration of that dismissal and requested that it be set aside for the same reasons stated herein.

requests that the Bureau should hold in abeyance any further similar dismissal actions or public notices pertaining to all five broadcast stations and two construction permits owned by Mr. Rice^{4/} until the Commission has had an opportunity to consider the forthcoming request for equitable relief.

5. WHEREFORE, in view of the foregoing, Lake respectfully asks the Mass Media Bureau to set aside the *MO&O*, reinstate Lake's Petition for Reconsideration, and hold the matter in abeyance pending the outcome of further proceedings before the Commission pertaining to Mr. Rice's stations and construction permits, including Stations KBMX(FM) and KFXE-FM.

Respectfully submitted,

LAKE BROADCASTING, INC.

By 
Jerold L. Jacobs

Cohn and Marks
1920 N Street, N.W. Suite 300
Washington, D.C. 20036
(202) 293-3860

Its Attorneys

Dated: May 15, 2001

^{4/} Stations WBOW, WBUZ, and WZZQ(FM), all Terre Haute, Indiana, are licensed to Contemporary Media, Inc. ("CMI"); Station KFMZ(FM), Columbia, Missouri, is licensed to Contemporary Broadcasting, Inc. ("CBI"); and Station KBMX(FM) is licensed to Lake. Lake is also permittee of Station KFXE-FM, and CBI is permittee of Station KROW(FM), Huntsville, Missouri. Mr. Rice is President and sole owner of CMI and Lake and is President and sole beneficial owner of CMI's wholly-owned subsidiary, CBI.

CERTIFICATE OF SERVICE

I, Maryam B. Jeffrey, hereby certify that I have mailed, first class postage prepaid, or have caused to be hand-delivered, on this 15th day of May 2001, a copy of the attached PETITION FOR RECONSIDERATION to the following:

John A. Karousos, Chief **(Hand Delivery)**
Allocations Branch
Policy and Rules Division
Mass Media Bureau, Room 3-A266
Federal Communications Commission
Washington, DC 20554

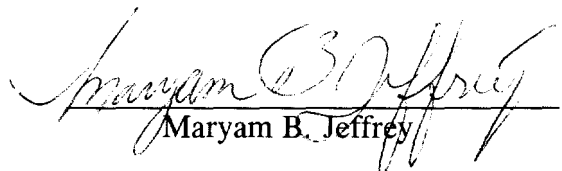
Ms. Kathleen Scheuerle **(Hand Delivery)**
Allocations Branch
Policy and Rules Division
Mass Media Bureau, Room 3-A247
Federal Communications Commission
Washington, DC 20554

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Turtle Broadcasting Co.**

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Station KCMG-FM
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Corum Industries, Inc.
Station KKOZ-FM
P.O. Box 386
Ava, MO 65608


Maryam B. Jeffrey